

TO: All Assessing Officers

No. 10 - March 23, 1983  
Township Treasurer - Township  
Assessor, Incompatibility

FROM: State Tax Commission

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

INCOMPATIBILITY:

Township treasurer and  
township assessor

A township treasurer may not simultaneously serve as an assessor  
in the same township.

Opinion No. 6126

Honorable Nick Smith  
State Senator  
The Capitol  
Lansing, Michigan

FEB 15 1983

You have requested my opinion upon the following  
question:

May a person simultaneously be a township  
treasurer and assessor of the same township?

A township treasurer is a member of the township board  
in both general law townships, RS 1846, ch 16, § 70; MCLA 41.70;  
MSA 5.62, and charter townships, 1947 PA 359, § 5; MCLA 42.5; MSA  
5.46(5). Under both statutes, township assessors are appointed,  
and their compensation is established by the township board. RS  
1846, ch 16, § 61; MCLA 41.61; MSA 5.52, provides:

"In any township, in addition to the assessor,  
the township board may provide for the appointment  
of assessors...and...shall receive for their  
services such compensation as may be allowed  
by the township board."

OAG, 1975-1976, No 4898-A, p 477, 478 (May 26, 1976), in construing  
RS 1846, ch 16, § 61, supra, concluded "that appointments of  
subordinate assessors are to be made by the township board. See  
1 OAG, 1957-1958, No 3045, p 344 (July 12, 1957)." (Emphasis added.)

In charter townships, the charter township board may appoint two assessors and provide for their compensation. 1947 PA 359, supra, § 11a; MCLA 42.11a; MSA 5.46(11). Appointed assessors are employees of the township. 1 OAG, 1957-1958, No 3045, supra.

1978 PA 566; MCLA 15.181 et seq; MSA 15.1120(121) et seq, precludes public officers or public employees from holding two or more incompatible offices at the same time. 1978 PA 566, supra, § 1(b) defines "incompatible offices" for the purposes of the Act:

"'Incompatible offices' means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:


- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office."

The subordination/supervision criteria are the same under 1978 PA 566, supra, as they were at common law, and the first and second criteria apply here, particularly where "'the incumbent of one of the offices had the power of appointment as to the other office, or the power to remove the incumbent of the other.'" OAG, 1979-1980, No 5626, pp 537, 542 (January 16, 1980), quoting CJS, Officers, § 23, pp 135-136.

The township treasurer, as a member of the township board, would participate in his or her own appointment as an assessor, and the setting of the compensation therefor, which gives rise to the subordination/supervision criteria, and thus incompatibility. Compare OAG, 1981-1982, No 6030, p \_\_\_\_ (January 21, 1982), which concluded on the same basis that service as a mayor and city assessor of the same city was incompatible.

Simultaneous service as an elected township treasurer and employment as assessor of the same township is also prohibited by 1976 PA 169; MCLA 15.401 et seq; MSA 4.1702(1) et seq, which precludes the holding of elective office and, at the same time, employment by the same unit of government. See OAG, 1975-1976, No 5108, p 685 (November 18, 1976), and OAG, 1979-1980, No 5621, p 533 (January 9, 1980).

It is my opinion, therefore, that a township treasurer may not simultaneously serve as an assessor in the same township.

  
FRANK J. KELLEY  
Attorney General